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Application No.: 09/638,457

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Docket No.: 324212003100

REMARKS

Claims 1-8, 24, 25, 38, 40-42, 46, 50-55, 58, 59, 75 and 76 were pending. By virtue of this response, no claim is amended or cancelled. Claims 75, 77-79 were previously withdrawn. Claim 76 was restricted out by virtue of original presentment in the previous response, and is therefore withdrawn. Therefore, claims 1-8, 24, 25, 38, 40-42, 46, 50-55, 58, 59, 75, 76, 77-79 are presently pending and claims 1-8, 24, 25, 38, 40-42, 46, 50-55, 58, 59 are presently under consideration.

Claims 1-8, 24, 25, 38, 40-42, 46, 50-55, 58, 59, 75 and 76 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over USPN 6,178,408 (Coppie) in view of the Background of the invention.

Claim 1, claim 50 and claims dependent therefrom

Claim 1 is to an incentive points system. The system provides (1) an interface to submit codes obtainable by the users from items, (2) machine logic operable to maintain a set of valid codes and to determine whether the codes submitted by the users are valid and if valid then to credit respective users with points, and (3) machine logic operable to accept items for auction from the users, to accept bids from the users on the items, and to determine which users won items.

Thus, the users as recited in presently pending claim 1 can submit codes to obtain points, submit items for auction, and bid on items at auction using points obtained and credited to their respective accounts (as also recited in claim 1.)

The rejection at page 4 appears to state that the "promoters" of Copple are "users" as recited in claim 1 because "the promoters are the one posting the items for auctions in the system, the promoters are different retail goods or services and therefore they are users of the Copple's system." (Final Rejection, mailed August 29, 2006 at 4.) However, the rejection does not allege that Copple teaches, or suggests, that the "promoters" of Copple can submit codes to obtain points as recited in claim 1, or bid on items at auction with points obtained according to the ways recited in claim 1. Therefore, the "promoter" of Copple cannot be the "user" of claim 1 because the "user[s]" of claim 1 are provided different or additional privileges, and capabilities than the Copple "promoter."

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Because the "promoter" of Copple cannot be the "user" of claim 1, Applicants respectfully submit that claim 1 is patentable over the present combination of references and request withdrawal of the rejection against claim 1 and all claims dependent from claim 1.

Claim 50 likewise includes similar limitations as to the abilities of "users," in that the users of claim 50 can also submit codes to obtain points, provide items for auction, and bid on items at auction. As described above, all such functionality is not attributed to the "promoter" of Copple, and therefore the "promoter" of Copple cannot be the "user" of claim 50. Applicants therefore respectfully request withdrawal of the rejection against claim 50 and all claims dependent from claim 50.

Claim 38

The rejection does not appear to address the last limitation of claim 38 by provide any citation from Copple or the background of the present invention for a teaching that "purchase and attention incentive points have different payment values." Additionally, there appears to be no such teaching or suggestion in either Copple or the background of the invention. Applicants therefore respectfully submit that the combination proposed in the rejection does not render obvious claim 38 because this combination does not teach or disclose all the limitations of claim 38. Applicant respectfully requests withdrawal of the rejection against claim 38 and all claims dependent from claim 38.

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CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 324212003100. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: October 17, 2006

Respectfully submitted,

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